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**Effective:** August 1, 1997

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**96.00 Utility Accommodation**  
**96.07 Compliance**

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**Supersedes:** April 1, 1995

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By: Director, Bureau of Highway Operations

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## A. Authority

Representatives of the Department have the authority to enforce the Utility Accommodation Policy and those specific provisions related to individual utility permits. These representatives (a.k.a. inspectors) include the district chief maintenance engineer and his subordinates, and the county highway commissioner, his/her supervisors, and foremen. It also includes the project engineer when utility permits are part of construction projects.

All utilities, including all consultants, contractors, and subcontractors working for utilities, are required to abide by the Policy and those specific provisions related to individual utility permits.

## B. Failure to Comply

At the Department's option, the following measures may be taken if a utility fails to comply with the Policy or their permit provisions:

### 1. Verbal Request for Corrective Action

The request shall include:

- a. The reason(s) why the present or completed operation is (was) not in compliance with the Policy or the permit provisions,
- b. What steps shall be taken to correct the situation, and
- c. What additional action may be taken if step b is disregarded (items 2 through 7 listed as follows).

### 2. Written Reprimand

A written reprimand shall be sent to the utility for violating the Policy or their permit provisions when the utility does not comply with the verbal request.

The written reprimand shall contain the same information as the verbal request and shall serve as documentation for the violation. The Department district office shall be responsible for writing and sending this reprimand.

## **B. Failure to Comply (continued)**

### **3. Suspension of Work Activities**

If a responsible person of an inspected work site fails to comply with a verbal request, the inspector may order the suspension of all work activities at the site. If this occurs, the district chief maintenance engineer shall be informed of the situation.

If the district chief maintenance engineer or appropriate representative (area supervisor, permit coordinator) cannot be contacted, then the district director shall be notified. The Central Office Maintenance Permits Unit should also be contacted to inform them of the situation.

The Department shall then contact an authority of the utility to explain why the operation was suspended and what action needs to be taken before work can resume.

### **4. Removal of Installed Facilities**

Any facility installed by a utility shall be in the location shown on the approved permit. If such a facility is discovered in an **unacceptable** location, action shall be taken by the Department to have that facility relocated or removed.

The permittee shall remove the improperly placed facility and put it in an approved location. If the utility fails to relocate their facility, the Department shall have the facility removed and bill the permittee for such work.

### **5. Permit Revocation**

When a utility continues to be in noncompliance with the the Policy or their permit provisions, the Department may revoke the utility's permit. The utility may reapply for a permit to the district office when they can demonstrate a good faith effort to comply.

### **6. Public Service Commission (PSC) Notification**

Continued violations by a utility of the Policy or their permit provisions may cause the Department to notify the PSC and request its assistance in correcting the situation.

### **7. Withholding Approval of Future Permits**

Continued violations by a utility of the Policy or their permit provisions may cause the Department to withhold approval of permit applications for that utility until the violations are corrected to the satisfaction of the Department. The severity and number of written reprimands against a utility may serve as a guide in determining future permit approval.

## C. Procedures

When a utility site is inspected by the Department or its representative to determine compliance with the Policy, the following procedures may be utilized:

### 1. Inspection of Work In Progress

Upon reaching a work site, the inspector shall locate a responsible person and ask to review and discuss the utility operation. If applicable, a review of the permit shall also be performed.

If the inspector decides that changes to the operation are needed in order to bring it into compliance with the Policy or provisions of their permit, then a verbal request is the first corrective measure which shall be taken [see (B)(1)].

### 2. Inspection of Completed Work

After a permitted operation has been completed, the job site is subject to an inspection by the Department. If the work was done in violation of the Policy or the provisions of a utility's permit, then a verbal request is the first corrective measure which shall be taken [see (B)(1)].

## D. Immediate Action (Work In Progress)

When a utility operation or installation is not in compliance with the Policy or the provisions of their permit and is adversely affecting public safety, the inspector shall take immediate action.

If a responsible person refuses to comply with the verbal request and does not take immediate corrective measures to ensure public safety, the inspector shall then call the local law enforcement agency to have the utility or its contractor(s), subcontractor(s), or consultant(s) removed from state right-of-way. The inspector shall also take corrective measures to return the highway to a safe operating condition.